

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

OJORE MULUMBA AJAMU,

Plaintiff,

vs.

DOUGULAS COUNTY, NEBRASKA, CITY
OF OMAHA, NEBRASKA, The; STATE OF
NEBRASKA, The; DOUGULAS COUNTY
DISTRICT COURT, The; DOUGULAS
COUNTY CORRECTIONAL CENTER, The;
NEBRASKA MEDICINE HOSPITAL, in
Omaha; and OMAHA POLICE
DEPARTMENT, The;

Defendants.

8:22CV347

MEMORANDUM AND ORDER

This matter is before the Court to address the response filed by Plaintiff on February 1, 2023, [Filing No. 12](#), to this Court's show cause order requiring him to pay the initial partial filing fee or show cause why he has not made the payment, [Filing No. 11](#). Plaintiff seeks a Court order instructing the Lincoln Correctional Center to pay the initial filing fee due in this matter. [Filing No. 12](#).

On November 1, 2022, the Court granted Plaintiff's motion to proceed in forma pauperis, setting a deadline of December 1, 2022, for Plaintiff to pay the initial partial filing fee of \$2.66. [Filing No. 8](#). Upon Plaintiff's failure to pay the initial filing fee by the December 1 deadline, on January 3, 2023, the Court issued an order to show cause

requiring Plaintiff to either pay the initial filing fee or “to show cause why this case should not be dismissed for failure to pay the initial partial filing fee” by February 2, 2023. [Filing No. 9](#). Plaintiff then filed a motion on January 5, 2023, acknowledging that an initial filing fee payment was required and seeking an extension “if one was needed.” [Filing No. 10](#). On January 19, 2023, the Court denied the motion as seeking an advisory opinion but granted Plaintiff through February 21, 2023, to comply with the January 3 order to show cause. [Filing No. 11](#). On February 1, 2023, Plaintiff filed a response to the Court’s January 19 order indicating he now had funds to pay the initial partial filing fee and seeking a court order directing the correctional institution where he is held to pay the fee. [Filing No. 12](#). To date, the initial partial filing fee has not been received by this Court.

The Court construes Plaintiff’s February 1 response as authorization to release the initial partial filing fee of \$2.66 from his trust account. Prison officials may be directed by a court to collect federal filing fees from a prisoner’s trust account when funds are available. See [Smith v. Huibregtse](#), 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001) (directing prison officials to pay the prisoner plaintiff’s initial partial filing fee in a 42 U.S.C. § 1983 action because funds “existed” in plaintiff’s trust account since plaintiff received regular bi-monthly deposits).

IT IS THEREFORE ORDERED that:

1. By **March 24, 2023**, Plaintiff’s institution shall deduct the initial partial filing fee of \$2.66 from Plaintiff’s institutional account and remit payment to the Clerk of Court.
2. After payment of the initial partial filing fee, Plaintiff’s institution must collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2) and forward those payments to the Court.

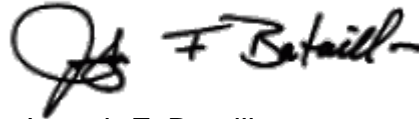
3. The Clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff's institution.

4. The Clerk of Court is directed to set a pro se case management deadline using the following text: **March 24, 2023**: initial partial filing fee due.

5. Plaintiff is advised that, following payment of the initial partial filing fee, the next step in Plaintiff's case will be for the Court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2). The Court will conduct this initial review in its normal course of business.

Dated this 22nd day of February, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon
Senior United States District Court